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Patent and Trademark Office

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/458,280 12/10/99 VOGEL

R 2000.1035

022775  
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QM32/1004

EXAMINER

DEMILLE, D

ART UNIT

PAPER NUMBER

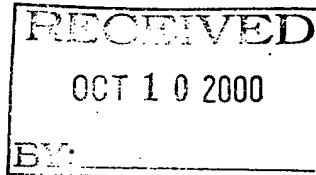
3764

DATE MAILED:

10/04/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks



# Office Action Summary

Application No.

09/458,280

Applicant(s)

Vogel et al.

Examiner

Danton DeMille

Art Unit

3764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some \* c) ☐ None of the CERTIFIED copies of the priority documents have been:
1. ☐ received.
2. ☐ received in Application No. (Series Code / Serial Number) \_\_\_\_.
3. ☐ received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

## Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other:

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. **Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**
2. In claim 1, it is not clear what is meant by “concurrent with the introduction of said negative pressure”. How is the structure of the foot wrap further limited by this language?
3. It is not clear how the limitations of claims 2 and 3 further define the structure over what has already been claimed. Describing “wherein at least some part of said foot wrap overlaps at least some part of said wound dressing” is merely describing intended use. This is describing how the foot wrap is placed on the body relative to the wound dressing. This is dependent on how the device is used and doesn’t appear to further define the structure. How is the structure of the foot wrap or wound dressing further limited by this language? Claim 4 also has similar language.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
5. **Claims 1-5 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jacobs et al. in view of Thorn et al.**
6. Jacobs teaches a foot wrap having an inflatable bladder for applying compressive force over the lower leg and foot of a patient. Jacobs also teaches that the foot wrap can be used in

combination with a wound dressing column 6, lines 4-7. Thorn teaches a conventional wound dressing for introducing negative pressure over any area of the patient. It would have been obvious to one of ordinary skill in the art to modify Jacobs to use the foot wrap in combination with a wound dressing as taught by Thorn in order to complete the teaching of Jacobs. The free and open arrangement of the Jacobs wrap allows free placement of the wound dressing anywhere desired or required.

7. **Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tumey et al. in view of Thorn and Jacobs et al.** Tumey teaches a foot wrap having an inflatable bladder for applying a compressive force to the patient's foot. Jacobs teaches the convention of using wound dressings in combination with inflatable foot wraps and Thorn exemplifies wound dressings that apply a negative pressure. It would have been obvious to one of ordinary skill in the art to modify Tumey to include a wound dressing with the wrap as taught by Jacobs to be able to additionally treat wounds and to use the specific type of wound dressing as taught by Thorn as an obvious example of wound dressings. Tumey additionally teaches the convention of pressure sensors 47 to control pressurization.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Khouri teaches the convention of using vacuum sensors.

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Art Unit 3764